

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FIRSTBANK, a TENNESSEE BANKING)	
CORPORATION,)	
Plaintiff,)	
)	
v.)	No. 04-2241 Ma/V
)	
BRETT H. BROWN and)	
JANICE L. BROWN,)	
Defendants.)	

ORDER ON DAMAGES

On March 25, 2005, the court granted Plaintiff FirstBank's motion for summary judgment. The court instructed FirstBank and Defendants Brett H. Brown and Janice L. Brown to submit evidence of the amount of debt owed by Defendants, calculation of interest, and evidence or arguments addressing FirstBank's claim for attorney fees.

FirstBank filed an affidavit of attorney James W. Surprise ("Surprise") in support of the award for attorney fees and an affidavit in support of its damage claim on April 12, 2005. Defendants filed a response on April 18, 2005.

I. Attorney Fees

The guaranty and suretyship agreement signed by the parties provides for court costs and attorney fees. Surprise states in his affidavit that he has spent a total of 25.40 hours at an hourly rate of \$250 and incurred expenses of \$150.00. Surprise requests an award of \$30,000, plus expenses of \$150.00, in anticipation of the cost of collecting the judgment. Defendants argue that an award

of \$30,000 would be excessive and suggest an award of \$6,350.

No evidence before the court would support an award of attorney fees in excess of the amount justified by Surprise's reasonable and ordinary hourly rates. Therefore, the court will award FirstBank attorney fees equal to Surprise's hourly rate multiplied by the number of hours he worked on the matter. Surprise has offered evidence that he spent 25.40 hours at his hourly rate of \$250.00. The time spent and the rate charged appear to the court to be reasonable. Thus, the court awards FirstBank \$6,350 for attorney fees, plus expenses of \$150.00, or a total of \$6,500.00.

II. Damages

By affidavit, Jeff Cagle ("Cagle"), collections officer for FirstBank, states that the current principal balance on the loan is \$224,125.09 and that the accrued late charges in accordance with the Note are \$11,963.38. Interest on the principal balance accrues at \$42.02345 a day. As of April 1, 2005, the current payoff on the Note was \$305,680.42. The Defendants have not contested the amount owed on the Note. Three hundred five days have passed since April 1, 2005. Therefore, Defendants owe additional interest in the amount of \$12,817.15 (daily interest on the principal multiplied by 305 days). The total amount owed by the defendants on the note, including late charges and accrued interest, is \$318,497.57.

III. Conclusion

For the foregoing reasons, the Defendants are liable under the written guaranty and surety agreements submitted with the complaint. Defendants owe the Plaintiff \$6,500.00 for attorney fees and expenses. Defendants also owe the Plaintiff \$318,497.57

on the Note.

So ORDERED this 31st day of January 2006.

s/ SAMUEL H. MAYS, JR
UNITED STATES DISTRICT JUDGE